

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

KEVIN LAMAR PORTER,

Plaintiff,

v.

AMEZCUA, *et al.*,

Defendants.

Case No. 1:23-cv-01491-JLT-BAM (PC)

ORDER GRANTING DEFENDANTS' *EX PARTE* MOTION FOR EXTENSION OF RESPONSIVE PLEADING DEADLINE

(ECF No. 40)

**Response to Second Amended Complaint
Due: February 3, 2025**

Plaintiff Kevin Lamar Porter ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action under 42 U.S.C. § 1983. This action proceeds on Plaintiff's second amended complaint against: (1) Defendant Amezcua for retaliation in violation of the First Amendment and a related state law claim for violation of the Bane Act; (2) Defendant Amezcua for excessive force in violation of the Eighth Amendment and related state law claims for battery and violation of the Bane Act for slamming Plaintiff on the ground; (3) Defendants Amezcua, Chao, and John Does 1–5 for excessive force in violation of the Eighth Amendment and related state law claims for battery and violation of the Bane Act for forcefully moving Plaintiff despite his complaints of severe pain; and (4) Defendants Amezcua, Chao, John Does 1–5, and Jane Does 1–2 for deliberate indifference to medical care in violation of the Eighth Amendment and a related claim for violation of the Bane Act.

Pursuant to the Court's November 4, 2024, order finding service of the complaint appropriate and directing electronic service, Defendants Amezcua and Chao's answers or other

responsive pleadings are due on or before January 3, 2025.¹ (See ECF Nos. 33, 35.)

Currently before the Court is Defendants Amezcua and Chao's *ex parte* motion for an extension of responsive pleading deadline, filed December 27, 2024. (ECF No. 40.) Plaintiff has not had the opportunity to respond to the motion, but the Court finds a response unnecessary. The motion is deemed submitted. Local Rule 203(l).

In support of the motion, counsel for Defendants Amezcua and Chao declares that although Plaintiff's central file was received on December 17, 2024, defense counsel has not received Plaintiff's medical records or other incident-related information. Defense counsel must review these documents to meaningfully discuss Plaintiff's claims with Defendants, and to prepare an answer with substantive admissions, denials, and potential affirmative defenses. Defendants Amezcua and Chao therefore request a thirty-day extension of time, up to and including February 3, 2025, to respond to Plaintiff's second amended complaint. (ECF No. 40.)

The Court, having considered the request, finds good cause to grant the requested extension of time. Fed. R. Civ. P. 6(b). The Court further finds that Plaintiff will not be prejudiced by the brief extension requested here.

Accordingly, it is HEREBY ORDERED as follows:

1. Defendants' *ex parte* motion for an extension of responsive pleading deadline, (ECF No. 40), is GRANTED; and
2. Defendants Amezcua and Chao shall file and serve a response to the second amended complaint on or before **February 3, 2025**.

IT IS SO ORDERED.

Dated: December 30, 2024

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE

¹ Defendants John Doe 1–5 and Jane Doe 1–2 have not yet been served. Plaintiff was directed to provide written notice identifying these defendants for service of process by February 5, 2025. (ECF No. 32.)